

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TAMI R. PALADINO,

Plaintiff,

v.

ROCHESTER INSTITUTE OF TECHNOLOGY,

Defendant.

**REPLY DECLARATION
OF KATHERINE S.
MCCLUNG, ESQ.**

Civil Action No.
6:22-cv-06028-FPG

Katherine S. McClung, Esq. declares, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a member of the law firm of Bond, Schoeneck, & King PLLC and serve as counsel to Defendant Rochester Institute of Technology in the above-referenced action.

2. I submit this reply declaration in further support of the Defendant's Motion to Dismiss the Amended Complaint.

3. A copy of the Division of Human Right's Notice and Final Order is attached hereto as **Exhibit 1**.

DATED: April 19, 2022

/s/ Katherine S. McClung
Katherine S. McClung, Esq.

EXHIBIT 1



**Division of
Human Rights**

**NEW YORK STATE
DIVISION OF HUMAN RIGHTS**

**NEW YORK STATE DIVISION
OF HUMAN RIGHTS**

on the Complaint of

TAMI R. PALADINO,

Complainant,

v.

ROCHESTER INSTITUTE OF TECHNOLOGY,
Respondent.

**NOTICE AND
FINAL ORDER**

Case No. 10201570

Federal Charge No. 16GB903452

PLEASE TAKE NOTICE that the attached is a true copy of the Recommended Order of Dismissal for Administrative Convenience (“Recommended Order”), issued on August 25, 2021, by Michael T. Groben, an Administrative Law Judge of the New York State Division of Human Rights (“Division”). An opportunity was given to all parties to object to the Recommended Order, and all Objections received have been reviewed.

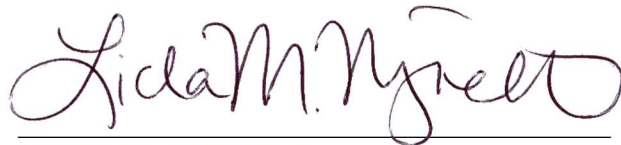
PLEASE BE ADVISED THAT, UPON REVIEW, THE RECOMMENDED ORDER IS HEREBY ADOPTED AND ISSUED BY THE HONORABLE LICHIA M. NYIENDO, COMMISSIONER, AS THE FINAL ORDER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS (“ORDER”). In accordance with the Division's Rules of Practice, a copy of this Order has been filed in the offices maintained by the Division at One Fordham Plaza, 4th Floor, Bronx, New York 10458. The Order may be inspected by any

member of the public during the regular office hours of the Division.

PLEASE TAKE FURTHER NOTICE that any party to this proceeding may appeal this Order to the Supreme Court in the County wherein the unlawful discriminatory practice that is the subject of the Order occurred, or wherein any person required in the Order to cease and desist from an unlawful discriminatory practice, or to take other affirmative action, resides or transacts business, by filing with such Supreme Court of the State a Petition and Notice of Petition, within sixty (60) days after service of this Order. A copy of the Petition and Notice of Petition must also be served on all parties, including the General Counsel, New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. Please do not file the original Notice or Petition with the Division.

ADOPTED, ISSUED, AND ORDERED.

DATED: **September 7, 2021**
Bronx, New York

A handwritten signature in dark ink, appearing to read "Licha M. Nyiendo", written over a horizontal line.

LICHA M. NYIENDO
COMMISSIONER

TO:

Complainant

Tami R. Paladino
93 Campus Drive
Rochester, NY 14623

Complainant Attorney

Jennifer A. Shoemaker, Esq.
Underberg & Kessler, LLP
300 Bausch & Lomb Place
Rochester, NY 14604

Respondent

Attn: Evan Thompson, Senior Associate Counsel
Rochester Institute of Technology
Office of Legal Affairs, Finance & Administration Division
154 Lomb Memorial Drive
Rochester, NY 14623

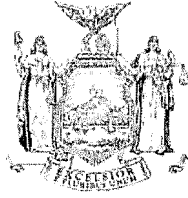
Respondent Attorney

Katherine McClung, Esq.
Bond, Schoeneck and King, PLLC
350 Linden Oaks, 3rd Floor
Rochester, NY 14625

Hon. Letitia James, Attorney General
Attn: Civil Rights Bureau
28 Liberty Street
New York, New York 10005

State Division of Human Rights

Robert Goldstein, Director of Prosecutions
Lilliana Estrella-Castillo, Chief Administrative Law Judge
Michael T. Groben, Administrative Law Judge
Michael Swirsky, Litigation and Appeals
Caroline J. Downey, General Counsel
Melissa Franco, Deputy Commissioner for Enforcement
Peter G. Buchenholz, Adjudication Counsel
Matthew Menes, Adjudication Counsel



**Division of
Human Rights**

**NEW YORK STATE
DIVISION OF HUMAN RIGHTS**

**NEW YORK STATE DIVISION OF
HUMAN RIGHTS**

on the Complaint of

TAMI R. PALADINO,

Complainant,

v.

**ROCHESTER INSTITUTE OF
TECHNOLOGY,**

Respondent.

**RECOMMENDED ORDER
OF DISMISSAL FOR
ADMINISTRATIVE
CONVENIENCE**

Case No. **10201570**

Federal Charge No. 16GB903452

PROCEEDINGS IN THE CASE

On May 29, 2019, Complainant filed a verified complaint with the New York State Division of Human Rights ("Division"), charging Respondent with unlawful discriminatory practices relating to employment in violation of N.Y. Exec. Law, art. 15 ("Human Rights Law").

After investigation, the Division found that it had jurisdiction over the complaint and that probable cause existed to believe that Respondent had engaged in unlawful discriminatory practices. The Division thereupon referred the case to public hearing.

The case was assigned to Michael T. Groben, an Administrative Law Judge ("ALJ") of the Division. Complainant was represented by Underberg & Kessler LLP (Jennifer A. Shoemaker, Esq., of counsel). Respondent was represented by Bond Schoeneck & King, PLLC (Katherine McClung, Esq., of counsel).

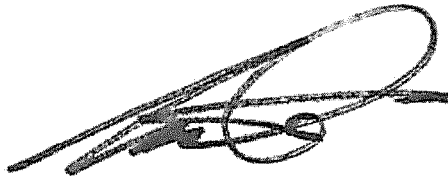
By letter dated August 5, 2021, Complainant requested that her case be dismissed for administrative convenience so that Complainant may pursue her claims of discrimination in federal court.

By letter dated August 6, 2021, ALJ Groben requested that Respondent provide its objections to the proposed dismissal, if any, in writing by close of business on August 16, 2021. Respondent did not file any objections.

Pursuant to Section 297.3(c) of the Human Rights Law, the complaint should be dismissed on the grounds of administrative convenience. The Complainant intends to pursue federal remedies in court, in which forum all the issues concerning the question of discrimination charged can be resolved.

ORDERED, that the case be dismissed for administrative convenience.

Dated: August 25, 2021
Bronx, New York

A handwritten signature in black ink, appearing to read 'Michael T. Groben', with a large, stylized loop at the end.

Michael T. Groben
Administrative Law Judge